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sarily limited by those things that are reasonably necessary for family use so long as they in fact go to the family support or are used jointly by the husband and wife. The extreme of this appears in *Neasham v. McNair*, 103 Ia. 695, in which the wife's estate was held for an expensive stick-pin purchased and used by the husband exclusively. This was held to be family expense upon the basis that since it was an article of personal adornment commensurate with the wealth and position of the family, it was "family expense" to the same degree as expensive clothing, which has always been considered in that category. On the other hand, a buggy purchased by the husband primarily for his personal use and to aid him in carrying on his professional duties as a doctor is not within this classification. *Staver Carriage Co. v. Beudry*, 138 Ill. App. 147. The argument of the plaintiffs in the principal case is based upon the holding of various courts that medical expenses incurred by the husband for his own illness are expenses of the family for which the wife may be held under similar statutes. *Vest v. Kramer*, — Ia. —, 114 N. W. 886; *Murdy v. Skyles*, 101 Ia. 549, 70 N. W. 714; *Leake v. Lucas*, 65 Neb. 359, 91 N. W. 374. And the claim is that litigation expenses should fall into the same category as medical and surgical expenses. The basis brought forward to support this is that all such expenses benefit the family in that they tend to return the husband to the bosom of his family. The court seems to adopt the sound view when it says that such an argument, if applied to expenses of litigation, would impose a liability on the wife for any legal difficulties in which the husband might become involved, so long as they might, by a successful culmination, result in making the husband better able to support his family. Such a result does not seem contemplated by the statute, which makes the wife liable for "only reasonable and necessary family expense."

HUSBAND AND WIFE—POSTNUPTIAL CONTRACT TO PAY WIFE AN ALLOWANCE.—The plaintiff and defendant, who were husband and wife, had been living apart for several years by mutual consent. The defendant promised to pay his wife a monthly allowance until such time as they should agree to live together. The wife brings suit for two unpaid installments. *Held*, that the contract was valid and not contrary to public policy. *Vanderburgh v. Vanderburgh* (Minn., 1921), 180 N. W. 999.

At common law husband and wife were considered as one person. 1 *Bl. Com.* 442. And contracts between husband and wife were void. 2 *Kent, Com.* 129; *Farwell v. Johnson*, 34 Mich. 342. In most states statutes have given the wife unlimited capacity to contract, and under such statutes contracts between husband and wife are binding. *Winter v. Winter*, 191 N. Y. 162; *Cole v. Cole*, 231 Mo. 236. However, the law looks with disfavor upon contracts tending to interfere with the continuance of the marriage relation; and contracts whereby the husband agrees to contribute to the support of the wife are invalid if the consideration or a part thereof is an agreement to continue the separate life. *Hill v. Hill*, 74 N. H. 288. But if the separation already exists at the time of entering into the contract and

is not induced or encouraged by it, the husband's agreement to pay the wife a stipulated allowance has been held binding. *Pettit v. Pettit*, 107 N. Y. 677. In the principal case, since the parties were living apart and the contract by its terms looked forward to a termination of the separation rather than to its continuance, the decision seems to have been correct.

**HUSBAND AND WIFE—WIFE MAY RECOVER FROM HUSBAND FOR INFECTION WITH VENEREAL DISEASE.**—Plaintiff's husband, having contracted a venereal disease, communicated it to her. In an action for damages, *held*, plaintiff may recover. *Crowell v. Crowell* (N. C., 1920), 105 S. E. 206.

The case represents a further addition to the growing list of authorities which allow a wife recovery from her husband for personal injuries inflicted by him. Furthermore, it is the first case in which infection with venereal disease has been the tort sued upon. The common law, because of the fictitious merger of the wife's existence into the husband's, denied her any right of action against him. The Married Women's Acts do not expressly allow it, but, with some variations, provide that the wife may sue or be sued separately for wrongs done to or by her as though she were unmarried. Courts which refuse the wife an action argue that these statutes, being in derogation of the common law, must be strictly construed, and therefore the words "sue separately as though unmarried" must be construed as effecting no more than a procedural change by permitting her to enforce her common law rights without joining her husband. Consequently, they do not add to her rights by giving her an action which she did not possess at common law. *Thompson v. Thompson*, 218 U. S. 611 (noted in 9 MICH. L. REV. 440), decided by a divided court in 1910, is a recent leading case adopting this construction. Justices Harlan, Holmes and Hughes were the dissenters, saying "the effect [of such a construction is] to defeat the clearly expressed will of the legislature by a construction of its words that cannot be reconciled with their ordinary meaning." This dissenting opinion was crystallized in 1914 in the decision of *Brown v. Brown*, 88 Conn. 42 (noted in 12 MICH. L. REV. 700), in which the Connecticut court blazed the trail by allowing the wife to recover from her husband for assault and battery. The court recognized the Married Women's Act was intended to work a real change in the marriage status by allowing the wife to retain after marriage her separate legal existence and pre-nuptial legal rights, and consequently to recover damages for injuries tortiously inflicted upon her, whether the defendant was a stranger or her husband. This seems to be a reasonable construction of the language of the statutes and at the same time it reaches a result in harmony with the modern social order. The next case allowing recovery was *Fiedler v. Fiedler*, 42 Okla. 124 (1915). However, the court was helped to its decision by the unusual wording of the Oklahoma statute, which provides that "women shall retain the same legal existence and legal personality after marriage as before." OKLA. REV. LAWS, 1910, Sec. 3363. But in *Gilman v. Gilman*, 78 N. H. 4 (1916), the court construed a statute of the usual form to allow the action. In *Fitzpatrick v. Owens*, 124 Ark. 167 (1916),